

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

Kelly Ann Riordan	:	
	:	
Plaintiff,	:	
	:	Civil Action No.
v.	:	3:09-cv-01876-TIV
	:	
Marywood University; Dr. Leonard Herman	:	
Diane Taylor; Ann Boland-Chase; Patricia	:	
Dunleavy; and John Does, 1-10	:	Judge Thomas I. Vanaskie
	:	
Defendants.	:	

**DEFENDANTS' MOTION TO DISMISS**

Defendants Dr. Leonard Herman, Diane Taylor, Ann Boland-Chase and Patricia Dunleavy ("Individual Defendants"), by and through their undersigned counsel, file this Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6). In support of this Motion, Defendants aver as follows:

1. In September 2009, Plaintiff Kelly-Ann Riordan filed her Initial Complaint against Defendant Marywood University ("Defendant Marywood") and the Individual Defendants asserting unspecified violations of the American's with Disabilities Act ("ADA").

2. Defendant Marywood and the Individual Defendants filed a Motion to Dismiss the Initial Complaint on January 12, 2010.

3. With Defendants' Motion pending, Plaintiff filed an Amended Complaint on February 14, 2010.

4. Plaintiff's Amended Complaint alleges claims against Defendant Marywood and the Individual Defendants under Titles II & III of the American's with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Rehabilitation Act").

5. Courts from the Third Circuit have consistently held that individual liability is not permitted under either the ADA or the Rehabilitation Act.

6. As a result, the Amended Complaint should be dismissed as it relates to the Individual Defendants.

7. The Individual Defendants are filing a brief in support of this motion. Defendants' brief, certification and exhibits attached thereto are incorporated herein by reference.

WHEREFORE, the Individual Defendants respectfully request that Plaintiff's Amended Complaint be dismissed with prejudice.

Dated: March 1, 2010

Respectfully submitted,

JACKSON LEWIS LLP

/s/ Roger E. Grimaldi

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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2010, I filed electronically a copy of the foregoing Motion to Dismiss and all supporting papers. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. In addition, a hard copy will be sent via Federal Express to Plaintiff's counsel at the following address:

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